

I hereby certify that this correspondence is being filed by deposit with the United States Postal Service as first class mail in an envelope with sufficient postage and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231 on the date indicated below.

Signed: *Peter K. Troyne* (Reg. No. 3,600)

Date: AUGUST 20, 2001

**PATENT**

**Paper No. 3**

**File: Proflowers-P2-01**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventors	:	David McCarter, Jared Schutz
Serial No.	:	09/847,644
Filed	:	May 2, 2001
For	:	GENERATING A COURIER SHIPPING LABEL OR THE LIKE, INCLUDING AN ORNAMENTAL GRAPHIC DESIGN, AT A NON-COURIER PRINTER
Group Art Unit	:	2624
Examiner	:	

Honorable Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

**DECLARATION OF WILLIAM STRAUSS**

SIR:

I, William Strauss, having personal knowledge of the facts set forth herein, hereby deposes and says that:

1. I am the President and Chief Executive Officer of ProFlowers, Inc. (ProFlowers), a corporation under the laws of the State of Delaware, having an address of 505 Water Ride Drive, San Diego, California 92121, which is the assignee of the above-identified U.S. patent application by the assignments executed by the respective inventors.

2. Mr. Jared Schutz, who has changed his last name to Polis, has executed a DECLARATION AND POWER OF ATTORNEY as original, first, and joint inventors of the subject matter which is claimed in the above-referenced U.S. patent application.

3. Mr. David McCarter, who was employed by ProFlowers and compensated for participating in the conception and development of aspects of the invention set forth in the above-referenced patent application, for and in combination with the work of Jared Polis, has refused to execute a Declaration and Power of Attorney, though ProFlowers has done all reasonably possible to obtain execution of the Declaration.

4. After the invention thereof, Mr. David McCarter ceased to be employed by ProFlowers, . and has a last known address of 12213 Carmel Vista Road, #235, San Diego, CA 92130.

5. As per the enclosed June 19, 2001, letter from Steve Kemper, Chief Financial Officer of ProFlowers, a package including Declaration and Power of Attorney, an Assignment (with check, to have a cleaner paper trail), and a copy of the patent application was sent to Mr. David McCarter to his last-known residential address, by Certified Mail.

6. However, Mr. David Carter did not claim the package, which was returned.

7. In a further attempt to obtain Mr. David Carter's signature on the Declaration, the same package was sent to Mr. McCarter at the same address by Federal Express, which as shown in the enclosed, has posted a successful delivery notice as follows:  
Tracking Number : 810152590483

Ship Date :

Delivered To : Recipient

Delivery Location : SAN DIEGO CA

Delivery Date/Time : 07/18/2001 09:53

Signed For By : C. CREGG

Service Type : Priority Box

Aug-20-01 01:49P

P.04

**Scan Activity Date/Time Scan Exceptions**

Delivered SAN DIEGO CA 07/18/2001 09:53 No signature required - release waiver on file

Delivered SAN DIEGO CA 07/18/2001 09:53 No signature required - release waiver on file

On FedEx vehicle for delivery SAN DIEGO CA 07/18/2001 08:21

Arrived at FedEx Destination Location SAN DIEGO CA 07/18/2001 07:05

Left FedEx Origin Location SAN DIEGO CA 07/17/2001 18:41

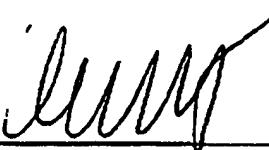
Picked up by FedEx SAN DIEGO CA 07/17/2001 16:31

8. There was no response from Mr. David McCarter.

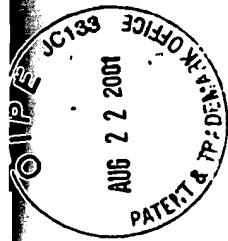
9. Mr. David McCarter has been fully compensated for participation in the invention of the above-referenced patent application, and has a duty to cooperate in this patent application and execute the Declaration and the Assignment pursuant to the EMPLOYEE INNOVATIONS AND PROPRIETARY RIGHTS ASSIGNMENT AGREEMENT signed by Mr. David McCarter and enclosed herewith.

I hereby declare that all statements made herein of knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issued thereon.

Date: August 20, 2001

  
\_\_\_\_\_  
William Strauss

President and Chief Executive Officer  
ProFlowers, Inc.



David McCarter  
12213 Carmel Vista Road, #235  
San Diego CA 92130



Via Certified Mail  
Return Receipt Requested

Tuesday, June 19, 2001

**Re: Signatures of Declaration and Assignment for Patent Entitled  
"Generating A Courier Shipping Label . . . ", 2 sets P1-01 and P2-01**

Dear David,

The Official Filing Receipt for the above-named patent has been received from the U.S. Patent and Trademark Office (USPTO) as of June 5. A Notice to File Missing Parts has been received as well. A complete copy of the patent application has been provided for you and does not need to be returned.

To complete the filing, sign the enclosed two sets of (1) the Assignment of Invention and (2) the Declaration and Power of Attorney.

The second set has been provided by our patent attorney as a remedy for a typographical error that occurred with the original filing of the application:

The deadline for completing the filing is July 19th. Please sign both sets and return to me in the envelope provided.

Sincerely,

Steve Kemper  
Chief Financial Officer & Treasurer

Encl: 2 sets Assignment & Declaration P1-01 & P1-02  
Copy of Patent Application

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web: www.proflowers.com